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# **ZONING ORDINANCE**

**CITY OF MALVERN, ARKANSAS**

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## FOREWORD

### Art. F-1 PURPOSES AND AUTHORITY

The zoning and subdivision regulations as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, or the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements. Zoning regulations have been developed with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City. Subdivision regulations have been developed to assure a coordinated street system and quality development of new living areas in and adjacent to the City.

### Art. F-2 CONFORMANCE OF PLANS

The City Planning Commission of Malvern, Arkansas, having made a comprehensive study of present conditions and future growth of the City and prepared and adopted a Land Use Plan, finds that this Ordinance would carry out the intent of the Land Use Plan.

## CHAPTER I: DEFINITIONS

### Art. 1-1: DEFINITIONS

Certain words and phrases shall for the purpose of this Ordinance have the following meaning:

1. Accessory Building and Use: A subordinate building including metal pre-fabricated buildings located on the same lot with the main building, or subordinate use of land, either of which is customarily incident to the main building or to the principal use of the land. Where a part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a manner as by a roof, such accessory building shall be counted as part of the main building.
2. Alley: A minor permanent public service-way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street, or which may be used for public utility services. Alleys may not serve as the only access to a property.
3. Apartment: A room or suite of rooms within a building, provided with separate cooking facilities and intended as a single dwelling unit.
4. Area: The amount of land surface in a lot or parcel of land.
5. Automobile Salvage Yard: Any lot or place which is exposed to the weather upon which more than 5 motor vehicles of any kind incapable of being operated are placed.
6. Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate building.
7. Building Height: Building height is the vertical distance from the curb level, or its equivalent, opposite the center of the front of a building to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the dock line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Where no curb level has been established, the height of a building may be measured from the mean elevation of the finished lot grade at the front of the building.
8. Building, Detached: A building having no party wall in common with another building.
9. Building Line: A line on a plat between which line and the street right-of-way, no portion of the building may be erected, including landings, open balconies, and roof overhangs, subject to the further requirements of the Zoning Ordinance.

10. Building Supply Company: Any establishment, or part of an establishment, operated, maintained or conducted for the sale or offering of any of the following articles: hardware, tinware, aluminumware, enamelware, cutlery, tools, implements, apparatus, machinery, and other supplies each of which relate to building or lawn care. Lumber sold on the premises shall be compatible and subordinate to other items sold, and not the primary supply and distribution item of the business; and shall typically be sold in small lots rather than large quantity.
11. Cemetery: A place for burial of deceased humans, including crematory facilities as an accessory use.
12. Child Care Center: Nursery-child care center is any establishment which provides supplemental parental care and supervision, and/or educational instruction to 2 or more children during the whole or any portion of the day on a regular basis for compensation.
13. Church: A building, together with its accessory buildings, and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
14. Clinic, Medical or Dental: An organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include in-patient care.
15. Conditional Use: A use which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After review and due consideration, the Planning Commission may approve the request as submitted or with conditions.
16. District: A part or parts of the incorporated area of Malvern for which the Zoning Ordinance establishes regulations governing the development and use of land therein. For interpretation of District Boundaries, see Chapter II, Art. 2-3.
17. Dormitory: A building providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution.
18. Dwelling: A building or portion exclusively for residential occupancy, including One-family, multi-family, and single dwellings, but not including hotels, motels, lodging houses, boarding houses or tourist homes.
19. Dwelling Unit: A dwelling unit consists of one or more rooms which are arranged, designed, or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each "dwelling unit."
20. Dwelling, Attached: A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.
21. Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot.

22. Dwelling, Single Family: A building designed for or occupied exclusively by one family.

23. Duplex: A building designed for or occupied exclusively by 2 families.

24. Dwelling, Multiple Family: A building or portion thereof designed for or occupied exclusively by more than one family.

25. Educational Institution: A public, parochial or private pre-primary or kindergarten, primary, grammar or high school; a private preparatory school or academy providing courses of instruction substantially equivalent to the courses offered by public high schools for preparation for admission to college or universities which award B.A. or B.S. degrees; a junior college, college or university if not conducted as a commercial enterprise for profit. Nothing in this definition shall be deemed to include trade or business schools or colleges.

26. Flood Plain: A geographic area susceptible to periodic inundation from overflow of natural waterways and determined as to extent by the U. S. Army Corps of Engineers.

27. Floodway: The channel of a watercourse and adjacent land areas which are required to carry and discharge the flood water of the watercourse of a regulatory flood without substantially increasing flood heights.

28. Floodway Fringe: The area adjoining a watercourse, not lying within a floodway which has been or may hereafter be covered by a regulatory flood.

29. Frontage: Frontage is the length of all the property fronting on one side of a street between the 2 nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

30. Garage, Private: A detached accessory building or portion of a main building, used for the storage of self-propelled passenger vehicles where the capacity does not exceed 3 vehicles, or not more than 2 per family housed in the building to which such garage is accessory, whichever is the greater, and not more than one-third the total number of vehicles stored in such garage shall be commercial vehicles. Storage space for not more than 3 vehicles may be rented for vehicles of other than occupants of the building to which such garage is accessory.

31. Garage, Parking or Storage: Any building, except one herein defined as a private garage, used exclusively for parking of self-propelled passenger vehicles, and with not more than 3 pumps for the incidental sale of gasoline.

32. Garage, Public or Repair: Any premises, except those described as a private or parking garage, used for the storage or care of self-propelled passenger vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

33. Home Occupation: Home occupation is any occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there are no advertising signs other than one non-illuminated name plate not more than 2 square feet in area attached to the main or accessory building; there is no commodity sold that is not created on the premises; and no person is employed other than a member of the immediate family residing on the premises; no equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property line. A professional person may use their residence for infrequent consultation, emergency treatment, or performance of religious rites, but not for the general practice of their profession. The keeping of not more than 2 roomers or boarders shall be considered a permitted home occupation. A beauty shop having facilities to serve no more than one person shall be considered a permitted home occupation.

34. Hospital: Includes "sanitarium," "sanatorium," provided such institution is operated by, or treatment is given under direct supervision of a physician licensed to practice by the State of Arkansas.

35. Hotel: Hotel is an establishment more than 2 stories in height which is open to transient guests, in contradistinction to a boarding, rooming, or lodging house, and is commonly known as a hotel in the community in which it is located; and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk service, the use and upkeep of furniture, and bellboy service.

36. Industrial Park: Industrial park is a special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.

37. Kennel: Any lot or premises on which are kept 3 or more dogs, such dogs being more than 6 months of age.

38. Lot: A platted parcel of land intended to be separately owned, developed, or otherwise used as a unit.

39. Lot Area: The total horizontal area within the boundaries of a lot exclusive of any area designated for street purposes.

40. Lot, Corner: A lot abutting upon 2 or more streets at their intersection.



41. Lot, Double Frontage: A lot having frontage on 2 non-intersecting streets, as distinguished from a corner lot. Structures located on double fronted lots shall be oriented in a manner consistent with surrounding lots.
42. Lot Depth: Lot depth is the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
43. Lot Line, Interior: Any lot line which is not also a street right-of-way line.
44. Lot Width: The distance parallel to the front of a building erected or to be erected, measured between side lot lines at the building line.
45. Lot Line Front: That boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line.
46. Lot Line, Rear: That boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.
47. Lot Line Side: Any boundary of a lot which is not a front lot line or a rear lot line.
48. Manufactured Home: A residential dwelling built in accordance with the Federal Manufactured Home Construction and Safety Standards.
49. Modular Home: A residential dwelling, constructed in a factory to a residential construction code other than the Federal Manufactured Home Construction and Safety Standards.
50. Mobile Home: A residential dwelling that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, built prior to enactment of the Federal Manufactured Home Construction and Safety Standards, and consistent with any state definitions.
51. Manufactured Home Park: A tract of land of a minimum of 6 acres, located on a collector street, designed and developed for the placement of manufactured housing units thereon, and to be used for dwelling purposes only except as provided herein. Mobile home spaces can be for rent, sale, or lease, and each mobile home space shall be located on an access easement of a minimum width of 30 feet. No sale or display of mobile homes is permitted in a mobile home park. See Subdivision Regulations for specific requirements.
52. Motel: An area containing one or more buildings (2 stories or less in height) designed or intended to be used as temporary sleeping facilities of one or more transient persons or families and intended primarily for automobile transients.
53. Nonconforming Building or Structure: Any building or structure which does not comply with all of the regulations of this Ordinance or of any amendment hereto.

54. Nuisance: Any regular or intermittently occurring activity or use that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property line except as specially defined in Industrial Zoning Districts.

55. Office, Professional: The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical, or agricultural, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either, advising or guiding them in serving their interest or welfare through the practice of an act founded thereon. Examples of professional offices are those accommodating real estate personnel, engineers, architects, city planners, accountants, attorneys, appraisers, dentists, and doctors of medicine.

56. Parking Area: Any area, other than a street, whether open, covered, or enclosed, used for the parking or storage of automobiles, boats, trucks, trailers or other wheeled vehicles, whether free or for compensation, or for accommodation of clients, customers, employees, members, visitors or for residents of structures of higher density than two-family. For specific requirements, refer to Chapter VI.

57. Parking Space, Off-Street: A space on private land accessible from a usable street or alley, not less than 9 feet wide and 20 feet long, with the necessary maneuvering room within the private property.

58. Place of Public Assembly: A meeting place in which the public or membership groups are assembled regularly or occasionally, including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

59. Principal Use: The chief or main recognized use of a structure or of land.

60. Property Lines: The ownership lines bounding a lot, or combination of platted lots to be used as a single parcel.

61. Salvage Yard: A parcel of land on which waste material or inoperative vehicles and other machinery is collected, stored, salvaged or sold.

62. Service Station: Any structure or premises used for dispensing or sale, at retail, of automotive vehicle fuels or lubricants, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

63. Setback: The minimum horizontal distance between the building line and the property line.

64. Sign: A name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land, and which directs

attention to an object, product, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display of official court or public office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building not visible from the exterior.

65. Story: Story is that part of a building between any floor and the floor next above, and if there be no floor above, then the ceiling above. A basement is a story if its ceiling is 5 feet or more above the level from which the height of the building is measured, or if it is used for business purposes, or if it contains any dwelling units other than one dwelling unit for the caretaker of the premises.

66. Story Half: A space under a sloping roof which has a line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than 2/3 of the floor area is finished off for use. A half story containing independent apartments or living quarters shall be counted as a full story.

67. Street: A general term denoting a public thoroughfare which affords the principal means of access to abutting property. The term includes all facilities which normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, court, but shall not include an alley or a pedestrian way.

68. Street Intersection: Any street which joints another street at an angle, whether or not it crosses the other.

69. Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, except that driveways shall not be considered structures.

70. Structural Alterations: Any change in either the supporting members of a building, such as bearing walls, columns, beams or girders, or in the roof and exterior walls.

71. Trade or Business School: School conducted as commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include "educational institution" as defined in this section.

72. Use: As utilized in this Chapter, use is any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

73. Use Permitted on Review: See "Conditional Use."

74. Use, Nonconforming: Any use of land, building, or structures, or any combination thereof, lawful at the time of the enactment of this Ordinance, which does not comply with all of the regulations of this Ordinance or of any amendment hereto governing use for the zoning district in which such use is located.

75. Use, Permitted: A use which may be lawfully established in a particular District or Districts, provided it conforms with all requirements, regulations, and standards of such District.

76. Use, Principal: The main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may also be a "Conditional Use" or "Use Permitted Upon Review."

77. Variance: An authorized departure from the strict regulations of this Ordinance which may be granted in conformance with provisions of Chapter VIII.

78. Veterinary Clinic or Hospital: An establishment operated by a licensed doctor of veterinary medicine providing medical care to animals except that horses, cattle, and other similar large animals shall not be left on the premises by the owner.

79. Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

80. Yard, Exterior: A yard between any property line and any building or group of buildings.

81. Yard, Front: A yard extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the main building.

82. Yard, Interior: The yard area between any 2 or more buildings within a building group facing or backing each other. The minimum distance between buildings not orienting to each other at the side of the buildings shall not be considered interior yard.

83. Yard, Rear: A yard extending across the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

84. Yard, Side: A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the main building.

## CHAPTER II: ESTABLISHMENT OF DISTRICTS

### Art. 2-1: CLASSIFICATION OF DISTRICTS

For the purpose of promoting the public health, safety, morals, and general welfare of the Community, the City of Malvern, Arkansas, is hereby divided into the following types of districts:

R-1 Districts:	One-Family Residential Uses.
R-2 Districts:	One, Two and Multiple Family Residential Uses.
R-3 Districts:	One, Two and Multiple Family Residential Uses.
R-4 Districts:	Manufactured Home Parks
R-5 Districts:	Manufactured Home District
C-1 Districts:	Central Business Uses.
C-2 Districts:	Highway Commercial Uses.
C-3 Districts:	Neighborhood Commercial Uses.
C-4 Districts:	Office Commercial Uses.
I-1 Districts:	Heavy Industrial Uses.
I-2 Districts:	Light Industrial Uses.
FW Designation:	Floodway Overlay
FF Designation:	Floodfringe Overlay
QZ Districts:	Quiet Zones
PUD Districts:	Planned Unit Developments

### Art. 2-2: BOUNDARY OF DISTRICTS

The City is hereby divided into districts, or zones, as shown on the Official Zoning District Map which, together with all explanatory data thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning District Map shall be identified by the signature of the Mayor, attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning District Map referred to in Article 2-2 of the 1997 Zoning Ordinance of Malvern, Arkansas adopted on the                      day of                      1998."

If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other data portrayed on the Official Zoning District map, such changes shall be made on the Official Zoning District Map within 30 days after the amendment has been approved by the City City Council. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning District Map.

No changes of any nature shall be made in the Official Zoning District Map or information shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable under Chapter X, of this Ordinance.

Regardless of the existence of purported copies of the Official Zoning District Map which may from time to time be made or published, the Official Zoning District Map which shall be located in the Office of the City Clerk shall be the final authority as to the current zoning status of lands, buildings, and other structures in the City.

#### Art. 2-3: RULES FOR INTERPRETATION OF BOUNDARY DISTRICTS

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning District Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys or creeks shall be construed to follow such center lines.
2. Boundaries indicated as approximately following city limits shall be construed as following city limits.
3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
4. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line.
5. Boundaries indicated as parallel to or extensions of features indicated in paragraph "1" through "4" of this section shall be so construed. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
6. Whenever any street, alley or other public way is vacated or abandoned by official action by the Mayor and City Council City Council of the City of Malvern, Arkansas, the zoning district boundaries on each side of such street, alley or public way shall be automatically moved to the center line of same and all area included therein shall then and henceforth be subject to all appropriate regulations of the extended districts.

7. Where the street or property layout existing on the ground is at variance with that shown on the Official Zoning District Map, or in other circumstances not covered by paragraphs "1" through "6" of this Section, the Board of Zoning Adjustment shall interpret the district boundaries.

## CHAPTER III: GENERAL PROVISIONS

### Art. 3-1: GENERAL

Except as hereinafter provided in this Ordinance:

A. No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk,
2. To accommodate or house a greater number of families,
3. To occupy a greater percentage of lot area,
4. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required; or in any other manner contrary to the provisions of this Ordinance.

C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

E. All structures constructed or occupied in conformance with this Ordinance shall also conform to all other codes and regulations of the City.

F. Persons or corporations owning or developing property at intersecting streets shall not install, set out, or maintain, or allow the installation, setting out, or maintenance of any sign, hedge, shrubbery, natural growth, or other obstruction to the view higher than 3 feet, 6 inches above the level of the center of the adjacent intersection within that triangular area between the property line and a diagonal line joining points on the property lines 25 feet from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve and a diagonal line joining points on said tangent 25 feet from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve and at the corner.



The foregoing provisions shall not apply to permanent buildings; public utility poles; trees trimmed to the trunk to a line at least 8 feet above the intersection; saplings, or plant species of open-growth habits and not planted in the form of a hedge which are so-planted and trimmed as to leave at all seasons a clean and unobstructed cross-view; supporting members of appurtenances to permanent structures existing on the date this ordinance becomes effective; official warning signs or signals to places where the contour of the ground is such that there can be no cross-visibility at the intersection; or to signs mounted 10 feet or more above the ground, and whose supports do not constitute an obstruction as defined above.

No obstruction to cross-visibility shall be deemed to be excepted from the application of this section because of its being in existence at the time of the adoption hereof.

Any person or corporation found to be violating any provision of this section shall be served by the City with written notice stating the nature of the violation and providing 21 days for the satisfactory correction thereof. After the expiration date indicated by the notice of violation, any person who violates this section shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. After the expiration date indicated by the notice of violation each day such violation continues shall be considered a separate offense.

Art. 3-2: ANNEXATION

see ord # 05-05 adopted 2/14/05  
see ord # 00-06 adopted April 10, 2000

~~A. Land annexed to the City of Malvern shall remain unzoned for a period of 90 days during which period any owner may petition the City for appropriate zoning under provisions of the Annexation Ordinance. After the 90 day period has elapsed, remaining unzoned property shall be zoned R-2 (Residential) without further action.~~

~~B. Before official zone designation is made after annexation, all requests for building permits shall be referred to the City Planning Commission or a committee thereof. The Planning Commission or its designated committee may recommend issuance of the permit if said use conforms to the land use plan.~~

Art. 3-3: USES PERMITTED

A. Permits for Temporary Non-Conforming Uses.

Upon application to the City Clerk's office, permits may be issued for temporary uses such as the sale of produce in season; bazaars and carnivals; and construction offices. Permits so issued shall be subject to such limitations as the City Clerk's office may impose to protect the character of the district or districts affected.

Art. 3-4: COMPLETION OF EXISTING BUILDINGS

Nothing herein contained shall require any change in the plans construction, or designated use of a building actually under construction at the time of the adoption of this ordinance.

Art. 3-5: RELIEF FROM REQUIREMENTS FOR LOT AREA OR LOT WIDTH IN A RESIDENTIAL ZONE

On any lot separately owned in a residential zone at the time of passage of this ordinance and retained in continuous separate ownership, a single family structure may be erected even though the lot be of less width and/or area than required by the regulations of the residential zone in which the lot is located, provided all other area requirements are met.

Art. 3-6: AREAS NOT TO BE DIMINISHED

The lot or yard areas required by this ordinance for a particular building or use at the time of passage of this ordinance or later constructed or established shall not be diminished and shall not be included as a part of the required lot, open space, or yard area of any other building or use. If the lot, open space, or yard areas required by this ordinance for a particular building or use are diminished below requirements, the continued existence of such building or use shall be deemed a violation and punished as provided in this ordinance.

Art. 3-7: GROUP HOUSING PROJECTS

In the case of a housing project consisting of a group of 2 or more buildings to be constructed on a plot of ground of at least 2 acres not subdivided into the customary streets and lots, and which will not be so subdivided, where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to individual buildings in such housing project, the application of such requirements to such housing projects may be changed by the Board of Zoning Adjustment, in a manner that will be in harmony with the character of the neighborhood, will insure a density of land use no higher than the standard of open space as required by this ordinance in the district in which the proposed project is to be located. In no case shall a use or building height or density of population be permitted which is less than the requirement of the district in which the housing project is to be located.

## CHAPTER IV: CONDITIONAL USES

### Art. 4-1: CONDITIONAL USES

Several uses not normally permitted in a given zone may be permitted, with or without additional conditions, upon review and approval of the Planning Commission. Such uses have been specified in each zone. The petitioner must submit plot plans showing the proposed layout of such use, its effect on adjacent property, and the nature of activity contemplated shall also provide a petition signed by each property owner within 200 feet of his property. Such petition will indicate only that the affected property owners have been notified and not approved or disapproved. Notice may also be given to affected property owners by certified letter. The Commission must approve the use by a majority vote with a quorum present.

## CHAPTER V: USE AND AREA DISTRICTS

### Art. 5-1: RESIDENTIAL USE DISTRICT (R-1)

A. This district is intended to include the quiet residential neighborhoods characterized by single family homes on large lots, plus certain areas where similar residential development is likely to occur.

#### B. Uses Permitted

Property and buildings in a R-1, Single-family Residential Zone, shall be used only for the following purposes:

1. One single-family dwelling per lot.
2. Public park or playground.
3. Home occupation, as defined.
4. Transportation and utility easements, alleys, and rights-of-way.
5. Accessory buildings which are not a part of the main building, including one private garage; or accessory buildings which are a part of the main building, including one private garage.
6. A temporary bulletin board or sign, not exceeding 12 square feet in area and pertaining to the lease, hire, or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold.
7. Temporary building of the construction industry which is incidental to the erection of buildings permitted in this district, and which shall be removed when construction work is completed.
8. Parking lot provided to serve the uses permitted in this district.

#### C. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Municipal use, public building, and public utility.
2. Plant nursery in which no building or structure is maintained in connection therewith.

3. Golf course or country club.
4. Churches, but not including missions or revival tents or arbors.
5. Public school or school offering general education courses the same as ordinarily given in public schools and having no room regularly used for housing and sleeping.
6. A church bulletin board or sign, not exceeding 15 square feet in area, attached to the main building or located behind the front building line on the same lot with a church building.

B. Lot Area

1. One family dwelling: Minimum 8,000 square feet.
2. Churches: 25,000 square feet or 225 square feet times maximum seating capacity, whichever is greater.

C. Yard Requirements

All buildings shall be set back from street right-of-way lines or property lines to comply with the following yard requirements:

1. Front yard: 25 feet from property line or 50 feet from center line of existing right-of-way, whichever is greater.
2. Side yard: The main building shall be a minimum 10 feet from each property line, except that churches shall provide 50 feet from each property line. Unattached accessory buildings shall not be required to set back more than 3 feet from an interior side lot line when all parts of the accessory building are more than 90 feet from the front lot line.
3. Side yard street: Same as front yard.
4. Rear yard depth: The main building shall be a minimum of 25 feet from the property line or center of alley, where one exists, except that churches shall provide 50 feet from the property line when not abutting a street right-of-way. Otherwise, rear yard requirements for churches shall be the same as for the front yard.
5. Accessory buildings shall be set back a minimum of 5 feet from the property line.

D. Width

1. Minimum width of a lot at the front yard line or building line shall be 75 feet for one family dwelling.

E. Height Regulations

1. Maximum height shall be 2 ½ stories and not to exceed 35 feet.
2. Churches may be built higher than 35 feet upon review by the Planning Commission.

F. Structure Coverage

1. On any lot, the area occupied by structures, including accessory structures, shall not exceed 35 percent of the total area of each lot.

G. Off-Street Parking

1. 2 off-street parking spaces shall be provided for each single family residence. Other uses shall provide parking in conformance with the provisions of Chapter VI.

H. Sign Requirements

1. No sign or advertising displays are permitted except that one sign not exceeding 4 square feet in area may be erected to advertise the entire premises as being for sale or rent, and that a bulletin display not exceeding 10 square feet may be maintained in the front yard of a church.
2. The location of such signs shall be 10 feet from any street right-of-way.

Art. 5-2: MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)

This is a residential district to provide for medium and high population density. The principal use of land may range from single family to multiple family and garden apartment uses. Certain uses which are more compatible functionally with intensive residential uses than with commercial uses are permitted. The recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are permitted. Stability of the property value, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

A. Uses Permitted

Property and buildings in a R-2 General Residential District shall be used only for the following purposes:

1. One single-family dwelling per lot.
2. One 2-family dwelling per lot.
3. Multi-family dwellings not to exceed 4 units per lot.
4. Parks and playgrounds.
5. Public utilities such as water storage, power substations, fire stations, sewer lift stations, to include easements as appropriate to the district.
6. Manufactured Homes, provided that:
  - (a) All units are multi-sectional;
  - (b) All units are anchored in accordance with state guidelines or the manufacturer's instructions;
  - (c) All units are oriented in the same manner as other housing in the immediate area;
  - (d) All units have a continuous underpinning;
  - (e) All units have front steps with handrails; and
  - (f) All transportation elements, including tongues and axles, are removed.

C. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Any use permitted on review in a R-1 Single-family Dwelling District.
2. Medical office building.
3. Churches.

4. Schools offering a general education course.
5. Child care center, public or private.
6. Rooming or boarding houses.
7. Garage apartments.
8. Home occupation, as defined.
9. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

B. Lot Area

1. One family dwelling: Minimum 6,500 square feet.
2. Churches: Minimum 25,000 square feet or 225 square feet times maximum seating capacity, whichever is greater.

C. Yard Requirements

All buildings shall set back from street right-of-way lines or property lines to comply with the following yard requirements:

1. Front yard: 25 feet from property line or 50 feet from centerline of existing right-of-way, whichever is greater.
2. Side yard: The main building shall be a minimum of 7 ½ feet. Unattached accessory buildings shall not be required to set back more than 3 feet from an interior side lot line when all parts of the accessory building are more than 90 feet from the front lot line.
3. Side yard street: 15 feet from property line when lot is back to back with another lot. 20 feet in all other instances.
4. Rear yard: The main building shall be a minimum 20 feet from property line or center of the alley, where one exists. Garage apartments may be located in the rear yard of a single family dwelling, but shall not be closer than 10 feet to the rear lot line.
5. Accessory buildings shall be set back a minimum of 5 feet from rear property line.



#### D. Width

There shall be a minimum lot width of 60 feet at the front building line for single family dwellings and 20 feet additional width at the front building line for each family, more than one, occupying a dwelling.

Minimum lot width at the street shall not be less than 35 feet.

#### E. Height Regulations

1. When the height of a proposed structure would exceed 2 ½ stories or 35 feet, it shall be approved by the Planning Commission to insure a safe, healthful environment.
2. Churches may be built higher than 35 feet upon review by the Planning Commission.

#### F. Structure Coverage

On any lot, the area occupied by structures, including accessory structures, shall not exceed 40 percent of the total area of the lot.

#### G. Off-Street Parking.

See Chapter VI.

#### H. Sign Requirements.

1. No sign or advertising displays are permitted except that one sign not exceeding 4 square feet in area may be erected to advertise the entire premises as being for sale or rent, and that a bulletin display not exceeding 10 square feet may be maintained in the front yard of a church.
2. The location of such signs shall be at least 10 feet from any street right-of-way.
3. There shall be no advertising signs for home occupations other than one non-illuminated nameplate not more than 2 square feet in area attached to the main or accessory building.

#### Art. 5-3: RESIDENTIAL USE DISTRICT (R-3)

This district is intended to permit quiet residential neighborhoods of single, two family, and multiple-family homes with smaller lot requirements than R-2.

#### A. Permitted Uses

Property and buildings in a R-3 General Residential District shall be used only for the following purposes:

1. One-family dwellings.
2. 2-family dwellings.
3. Multi-family dwellings not exceeding 12 units per acre.
4. Manufactured homes, provided that:
  - (a) Units are anchored in accordance with state guidelines or manufacturer's instructions;
  - (b) All transportation elements, including tongues and axles, are removed;
  - (c) All units shall have a continuous underpinning; and
  - (d) All units shall have front steps with handrails.

#### B. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Article 4-1.

1. Multi-family dwellings exceeding 12 units per acre
2. Conditional uses permitted in the R-1 and R-2 zones.

#### C. Lot Area

1. One family: Minimum 6,000 square feet for first unit.
2. 2 family: Minimum 8,500 square feet.
3. Multi-family: 1,500 square feet of unobstructed open space for each dwelling unit.

#### D. Yard Requirements

All buildings shall be set back from street right-of-way lines or property lines to comply with the following yard requirements:

1. Front yard depth: 25 feet from property line or 50 feet from center line of existing right-of-way whichever is greater.
2. Side yard width: Minimum 7 ½ feet from each property line.
3. Yard on side street: 15 feet.
4. Rear yard: Minimum of 10 feet from property line.
5. Accessory buildings shall be set back a minimum of 5 feet from rear property line, and, when all parts of the building are more than 90 feet from the front lot lines, a minimum of 3 feet from interior side lot line.

#### E. Width

Minimum width of a lot at the front yard line or building line shall be 50 feet for one family dwellings and 70 feet for 2 family dwellings. For each additional unit over 2, an additional 10 feet shall be added to minimum width requirement for 2 family dwellings.

#### F. Height

1. When the maximum height of a structure exceeds 2 ½ stories, it shall be approved by the Planning Commission to insure a safe healthful environment.
2. Churches may be built higher than 35 feet upon review by the Planning Commission.

#### G. Dimensions

There are no dimension requirements for structures in an R-3 zone except as required by the Malvern Housing Code or other City ordinances.

#### H. Structure Coverage

On any lot, the area occupied by structures, including accessory structures, shall not exceed 40 percent of the total area of the lot.

#### I. Off-Street Parking

See Chapter VI.

## J. Places of Public Assembly

### 1. Height

(a) Maximum height shall be 2 stories and not to exceed 35 feet for that portion of the structure used for assembly or offices.

### 2. Yard Requirements

(a) Minimum of 25 feet from all property lines. On property abutting a street, 25 feet from property line or 50 feet from center of street, whichever is greater.

## Art. 5-4: MANUFACTURED HOME PARK (R-4)

This district is intended to provide for orderly developments in which manufactured housing units may be located. Such locations shall have necessary public utilities, community facilities, and other public services in order to provide a healthful living environment with the normal amenities associated with residential districts of the City.

### A. Design Standards

1. The park shall be located on a well-drained site properly graded to insure rapid drainage or freedom from stagnant pools of water.
2. Manufactured home spaces shall be provided consisting of a minimum of 4,000 square feet for each space which shall be at least 40 feet wide and clearly defined.
3. The minimum front yard setback shall be 20 feet to the front lot line of the mobile home park. Additionally, each manufactured home unit shall be set back at least 20 feet from all internal drives and access routes through the mobile home park.
4. The park shall be designed to accommodate a minimum of 5 manufactured homes.
5. Manufactured homes shall be so harbored on each space that there shall be at least a 20 foot clearance between the homes.
6. All manufactured home spaces shall abut a hard-surfaced driveway of not less than 20 feet in width, which shall have unobstructed access to a public street.
7. Internal streets and drives shall be designed for safe and convenient access to all manufactured home spaces. All such internal drives shall be privately owned, built,

and maintained. Such roadways shall be at least 20 feet in width and shall be constructed with a bituminous or concrete surface.

8. Each manufactured home space shall be provided with 2 off-street parking spaces each 9 feet by 20 feet in dimension. Parking areas shall be constructed according to the standards set forth in Chapter VI, Article 6-G.

9. Manufactured home parks must set aside open space as required by the Health Department of the State of Arkansas.

Art. 5-5: R-5 MANUFACTURED HOME DISTRICT

This district is intended to provide districts specifically designed for manufactured homes. The district will be similar to other residential districts in all aspects except that maximum lot sizes may be reduced.

A. Permitted Uses

1. One manufactured home per lot.
2. Public utilities such as water storage, power substations, and sewer lift stations.
3. Accessory structures and uses pertinent to the principal structure and use.

B. Conditional Uses

1. Churches

C. Bulk and area regulations

1. Minimum lot area: 5,000 square feet
2. Minimum lot width: 40 feet
3. Required yard setbacks: Same as R - 2 District
4. Maximum building height: Same as R - 2 District
5. Maximum structure coverage: Same as R - 2 District
6. Parking requirements: 2 hard surfaced spaces per lot
7. Sign requirements: Same as R - 2 District

Art. 5-6: CENTRAL BUSINESS DISTRICT (C-1)

This district is located centrally to the surrounding area and is intended to provide space for retailing services of all kinds, professional office banks, hotels, and places of amusement, plus limited wholesaling, manufacturing, warehousing and storage of goods which do not unduly disturb the retail character of the area.

A. Permitted Uses

1. Retail establishments providing goods and services such as clothing, furniture, groceries, drugs, hardware, variety stores and similar uses, and hotels, motor hotels, and restaurants.
2. Office (public or private) and bank buildings and uses.
3. Processing and manufacturing that by reason of operation are not a nuisance in respect to noise, odor, dust, vibration, etc.
4. Wholesaling and warehousing.
5. Bulk storage of noncombustible materials.
6. Automotive sales, service, repair, and storage.
7. Theaters, places of public assembly, and any public recreational uses.
8. Parking lots.
9. Garages and gasoline service stations subject to the following provisions:
  - (a) No repair work is performed out of doors.
  - (b) Pumps, lubricating or other devices are located at least 20 feet from any street right-of-way.
  - (c) All fuel, oil, or similar substances are stored at least 35 feet distance from any street or lot line.
  - (d) All automobile parts, dismantled vehicles, and similar articles are stored within a building.
10. Accessory structures and uses that are incidental to the permitted uses and that are not detrimental to the adjacent properties or the character of the district.
11. Churches (by Ord 2012, 9-13-99)

B. Lot Area

No requirement.

C. Yard Requirements

1. Front yard: None required, except as may be required by set-back ordinance or as otherwise stated herein.
2. Side yard: None required or as otherwise stated herein.
3. Rear yard: Minimum 20 feet from property line or center of alley where one exists.

D. Loading and Unloading

Loading and unloading facilities shall be provided so as not to block any public way. All maneuvering of vehicles in the process of loading or unloading shall be off any street right-of-way.

E. Structure Coverage

No requirements except as may be necessary to provide off-street parking space.

F. Screening Requirement

Where property zoned C-1 abuts a residential district, a planting screen or other visual barrier to be approved by the Board of Zoning Adjustment shall be constructed by the property owner or potential user of the property prior to the use of such property for other than residential purposes. The screen or barrier shall be constructed in such a manner that it provides a continual visual buffer between the 2 districts a minimum of 6 feet in height, except that such buffer shall not be placed within 15 feet of the paved surface of a street or highway.

Art. 5-7: HIGHWAY COMMERCIAL DISTRICT (C-2)

This district is usually located along highways or arterial streets, and is used for the retailing of durable goods, convenience goods, and providing services and lodging for transients. Uses in this district characteristically generate large volumes of automotive traffic.

A. Permitted Uses

Uses permitted in the C-2 Highway Commercial District shall consist of high volume retail and service outlets providing adequate off-street parking to accommodate customers. Uses permitted will be similar in nature and function to the following:

1. Amusement enterprises.
2. New and used automobile sales and service, new and used machinery sales and services, and public garages.
3. Advertising signs or structures.
4. Ambulance service, office or garage.
5. Auto glass or muffler shop.
6. Auto parts, sales with limited motor vehicle parts installation.
7. Auto repair garage.
8. Automobile service stations.
9. Bakery.
10. Boat sales.
11. Bowling alley.
10. Bus terminal.
11. Clothing store.
12. Department store.
13. Drive-in restaurant.
14. Eating place with drive-in service.
15. Electric transmission station.
16. Feed and fuel store.
17. Food store.
18. Frozen food locker.
19. Furniture repair and upholstery.



20. Funeral parlor.
21. Garden stores.
22. Golf course, miniature or practice range.
23. Heating and plumbing sales and service.
24. Home center.
25. Interior decorating store.
26. Ice plant.
27. Key shop.
28. Kennel.
29. Landscape center.
30. Laundry.
31. Lawn and garden center, open display.
32. Miniwarehouse.
33. Motel.
34. Music, radio, and television shop and repair
35. Novelty shop.
36. Nursing home or convalescent home.
37. Office warehouse.
38. Pet shop.
39. Plant nursery, wholesale and producer.
40. Printing shop or plant.
41. Public uses.

42. Recreation center.
  43. Research laboratories.
  44. Roller skating rink.
  45. Service station with limited motor vehicle repair
  46. Sign painting shop.
  47. Small engine repair.
  48. Sporting goods store.
  49. Swimming pool sales and supply.
  50. Stockbroker.
  51. Theater.
  52. Tool and equipment rental (with outside display).
  53. Upholstery shop.
  54. Veterinary hospital.
  55. Wholesale distributing center.
  56. Buildings, structures, and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.
  57. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not produce more noise, odor, dust, vibration, or traffic than those uses listed above.
  58. The bulk storage of liquefied petroleum gases.
  59. Other uses deemed similar in nature by the Planning Commission.
  60. Churches (by Ord 2012, 9-13-99)
- B. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Ambulance service post.
2. Amusement, commercial (outside).
3. Building material sales (open).
4. Bus station and terminal.
5. Car wash.
6. Lumberyard.

C. Lot Area

Minimum 10,000 square feet.

D. Yard Requirements

1. Front yard: Minimum of 50 feet from all street property lines if off-street parking is in front of the building. Front yard may be reduced to 25 feet if off-street parking is on the side or rear of the buildings.
2. Side yard: One foot of setback for each foot of building height when abutting more restrictive use areas.
3. Side yard on street: 25 feet.
4. Rear yard depth: 20 feet.

E. Width

Minimum width: 100 feet.

F. Height

Maximum height of a structure shall be 2 stories and not to exceed 35 feet.

G. Structure Coverage

On any lot, the area occupied by all structures shall not exceed 45 percent of the total area.

#### H. Off-Street Parking

Off-street parking shall be provided in accordance with Chapter VI. In all cases, the forwardmost 25 feet of the front yard shall be maintained as unobstructed open space and shall not be used for parking unless proper control is provided through curb line entrances and exits; and in no case will parking be permitted in a manner so as to result in an automobile backing into any street or otherwise interfering with moving traffic. Refer to Section 5-5 C for additional front yard requirements.

#### I. Loading and Unloading

Loading and unloading facilities shall be provided so as not to block any public way.

#### J. Screening Requirements

Where property zoned C-2 abuts - a residential district, a planting screen or other visual barrier to be approved by the Board of Zoning Adjustment shall be constructed by the property owner or potential user of the property prior to the use of such property for other than residential purposes in a manner that it provides a continual visual buffer between the 2 districts a minimum of 6 feet in height, except that such buffer shall not be placed within 15 feet of the paved surface of a street or highway.

### Art. 5-8: NEIGHBORHOOD COMMERCIAL ZONING (C-3)

This district is intended to provide space for the retailing of convenience goods such as groceries, drugs, and other goods purchased primarily by members of nearby households. The district is usually located along or at an intersection of major or collector streets adjacent or near to residential areas. Uses within this district typically, cater to small service areas and should not include commercial establishments which would tend to attract substantial traffic not originating in the neighborhood. The district is intended also to exclude retail establishments selling large and heavy products which involve substantial trucking. Protection of adjacent residential areas should be a major factor in the establishment of these districts.

#### A. Permitted Uses

Property and buildings in the C-3 Neighborhood Commercial District shall be limited to uses similar in nature to the following:

1. Appliance Repair.
2. Bakery or confectionery shop.
3. Branch bank.

4. Barber or beauty shop.
5. Book and stationery store.
6. Camera shop.
7. Church.
8. Cigar, tobacco, and candy store.
9. Clinic (medical, dental or optical.
10. Clothing store.
11. Community health center.
12. Custom sewing and millinery.
13. Day care center.
14. Drugstore or pharmacy.
15. Religious, charitable or philanthropic office.
16. Florist shop.
17. Food store.
18. Handicraft store or hobby shop.
19. Hardware store.
20. Jewelry store.
21. Key shop.
22. Laundromat.
23. Laundry or pickup station.
24. Lodge or fraternal organization.
25. Office (general and professional)

26. Optical shop
27. Paint and wallpaper store
28. Pet store
29. Photography store.
30. Private school or kindergarten.
31. School.
32. Secondhand store.
33. Shoe repair shop.
34. Studio for private music or speech lessons.
35. Tailor shop.
36. Tool and equipment rental (inside display only).
37. Travel bureau.
38. Upholstery Shop
39. Buildings, structures, and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.
40. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not produce more noise, odor, dust, vibration, or traffic than those uses listed above.
41. The bulk storage of liquefied petroleum gases.
42. Other uses deemed similar in nature by the Planning Commission.

#### C. Conditional Uses

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Amusement, commercial (inside)
2. Animal Clinic (enclosed)
3. Cabinet or woodworking shop
4. Catering, commercial
5. Convenience store with gas pumps
6. Eating place without drive-in service
7. Establishments for the care of alcoholic, narcotic, or psychiatric patients.
8. Health studio or spa
9. Nursing home or convalescent home
10. School (business)

B. Lot Area

Minimum lot areas for individual commercial uses are not required unless otherwise stated herein.

C. Yard Requirements

1. Front yard depth: Minimum of 40 feet.
2. Rear yard depth: 10 feet.
3. Side yard width: 10 feet. Side yard on street: 25 feet except where parking is provided in which case side yard width shall be 40 feet.

D. Width

Minimum width: None required unless otherwise stated herein.

E. Height

Maximum height of a structure shall be one story and not to exceed 20 feet.

#### F. Structure Coverage

Structures shall not cover more than 35 percent of the lot area.

#### G. Off-Street Parking

Off-street parking shall be provided in accordance with Chapter VI. In all cases, the forwardmost 25 feet of the front yard shall be maintained as unobstructed open space and shall not be used for parking unless proper control is provided through curb lines, entrances, and exits; and in no case will parking be permitted in a manner so as to result in an automobile backing into any street or otherwise interfering with moving traffic.

#### H. Loading and Unloading

Loading and unloading facilities shall be provided so as not to block any public way.

#### I. Signs

1. Each business establishment may install one sign not exceeding 20 square feet in area to advertise a product or products in the name of the firm provided that:

(a) No sign shall be located within 10 feet of the street right-of-way or of a residential district.

(b) No sign shall be illuminated by other than a constant indirect ray, the source of which is not visible from any property line.

(c) No sign shall extend higher than the front of the building.

#### J. Location and Design Criterion

1. Upon request for rezoning to neighborhood commercial, the following provisions apply:

(a) Be located next to a major or collector street or at the intersection of 2 major or collector streets.

(b) No 2 neighborhood commercial zoning districts shall be established closer than one-fourth mile apart except upon review by the Planning Commission.

(c) A complete plot plan showing the location and proposed use of structures and land, off-street parking, and ingress and egress shall be



submitted with each application for rezoning to establish a neighborhood commercial zone. No rezoning proposals will be considered until such plot plan has been submitted to the City Planning Commission and approved by such Commission as meeting the requirements of this zone.

(d) No use within this zone shall be an all-night operation.

Art. 5-9: OFFICE COMMERCIAL DISTRICT (C-4)

This commercial district is intended to provide a quiet business environment and should be used to provide a buffer between major traffic ways or intense commercial districts and residential districts.

A. Uses Permitted

Uses permitted in the C-4 Office District shall be limited to offices, low volume retail, residential, and public uses. Uses permitted will include those similar in nature and function to the following.

1. Addressing, telephonic, or stenographic offices
2. Ambulance service
3. Animal hospital (small pets)
4. Apartment house
5. Artist's or photographer's studio
6. Barber or beauty shop
7. Book store or newsstand
8. Broadcasting or recording studio
9. Cemetery or mausoleum
10. Child care institution, including day nursery
11. Churches, synagogues or temples, including Sunday School facilities
12. Clinics

13. Community centers - public
14. Computing or data center office
15. Dwellings, single family and duplexes
16. Financial institutions excluding pawnshops
17. Interior decorating shop
18. Library
19. Locksmith or key shop
20. Offices: administrative, executive, professional, research, governmental
21. Optician or optical laboratory
22. Postal service office
23. Public off-street parking lot
24. School, public or private
25. Studio, photographic, musical, fine arts
26. Taxidermist
27. Other uses deemed similar in nature by the Planning Commission

**B. Conditional Uses**

The following uses may be permitted, with conditions, upon review by the Planning Commission in accordance with provisions contained in Chapter IV Article 4-1.

1. Gas pressure control station or pipeline
2. Health studio or spa
3. Hospital or health center
4. Laboratory: research, development or testing

5. Newspaper offices, print shop

#### C. Area Regulations

1. The area requirements for dwellings and buildings accessory thereto shall be the same as requirements for uses in the R-2 Residential Zone Districts.
2. The following requirements shall apply to all other uses permitted in this district:

##### (a) Yard Requirements

(i) Front yard: All buildings shall be set back from the street right-of-way line to provide a front yard having not less than 25 feet in depth.

(ii) Side yard: Where a side yard is adjacent to a residential district, no building shall be located closer than 25 feet to the side lot line. In all other cases, no building shall be located closer than 20 feet to the side lot line except that where a former dwelling unit has been converted to a different use permitted under Article 5-7A., side yard requirements will be the same as those for the R-2 residential zone district.

(iii) Rear yard: No building shall be located closer than 20 feet to the rear lot line.

(iv) Coverage: Main and accessory buildings shall not cover more than 50 percent of the lot area and in no case shall the total gross floor area of the main building exceed the area of the lot.

#### D. Height Regulations

1. Height regulations for dwellings shall be the same as those of the R-2 residential district.
2. No building or structure shall exceed 3 stories or 35 feet in height unless approved by the Board of Zoning Adjustment.

#### E. Screening Requirements

Where property zoned C-4 abuts a residential district, a planting screen or other visual barrier to be approved by the Board of Zoning Adjustment shall be constructed by the property owner or potential user of the property prior to the use of such property for other than residential

purposes in a manner that it provides a continual visual buffer between the 2 districts a minimum of 6 feet in height, except that such buffer shall not be placed within 15 feet of the paved surface of a street or highway.

#### F. Signs

One sign not exceeding 12 square feet in size shall be allowed on the principal structure. The sign may be attached to the building face or set in the front yard, providing it is not closer than 10 feet to the right-of-way of any street and the height of any such unattached sign shall not exceed 4 feet from the ground. Unattached signs may not be illuminated, and attached signs may be illuminated only by a constant indirect ray, the source of which is not visible from any property line.

#### G. Off-Street Parking Requirements

Off-street parking shall be provided in accordance with Chapter VI. In all cases, the forwardmost 25 feet of the front yard shall be maintained as unobstructed open space and shall not be used for parking unless proper control is provided through curb lines, entrances and exits, and in no case will parking be permitted in a manner so as to result in an automobile backing into any street or otherwise interfering with moving traffic.

### Art. 5-10: HEAVY INDUSTRIAL DISTRICT (I-1)

#### A. General Description

This industrial district is intended to provide for heavy industrial uses and other uses not otherwise provided for in the districts established by this ordinance. The intensity of uses permitted in this district makes it most desirable that they be located downwind and separated from residential and commercial uses.

#### B. Uses Permitted

Property and buildings in an I-1 Heavy Industrial District shall be used only for the following purposes:

1. The manufacturing, compounding, processing, packaging, or assembling of such products as prohibited in the retail commercial use districts and light industrial district when it is found by the Enforcement Officer that the specific location and the safeguards provided will reduce the noise, dust, odor, or vibration so as not to be detrimental or dangerous to the health, safety, or general welfare of persons lawfully occupying adjacent properties or the citizens of Malvern.

2. Storage of bulk materials as is prohibited in the retail commercial use districts, or light industrial districts, when it is found by the Enforcement Officer that the specific location and safeguards provided will reduce the danger of fire or explosion so as not to be dangerous to the health, safety, or general welfare of persons lawfully occupying adjacent properties or of citizens of the City of Malvern.

3. The following limitations on the external effects of permitted uses will apply in all cases.

(a) Emission of Noise, Vibration, Heat, Glare, Smoke, Odor, Fumes.

(i) Every use shall be so operated that it does not emit an obnoxious or dangerous amount of noise, vibration, heat, glare, radiation or fumes beyond any boundary line of the lot on which the use is located.

(ii) For the purposes of this ordinance, the emission of any sound inherently and recurrently generated which exceeds 70 decibels at any boundary line of the lot on which such sound is generated, is considered obnoxious. Vibration will be considered obnoxious when it is perceptible without the use of instruments, beyond the boundary lines of the lot on which such vibration is generated. The emission of heat, glare, radiation, fumes, smoke or dust will be considered obnoxious when such emissions are dangerous, or constitute a nuisance to adjoining properties both within and beyond the boundaries of the I-1 industrial district.

(b) Outdoor Storage and Waste Disposal.

(i) No highly-flammable or explosive liquids, solids, or gases, except Liquified Petroleum Gas, shall be stored in bulk above ground. Tanks or drums of fuel directly connecting with energy devices, heating devices or appliances located on the same Zone Lot as the tanks or drums of fuel are excluded from this provision.

(ii) All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a solid fence or wall adequate to conceal such facilities, fuel, raw materials and products from adjacent residential and business districts; provided, however, that such fence or wall need not exceed 10 feet in height.

(iii) No materials or waste shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes.

(iv) All materials or waste which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

4. Churches (by Ord 2012, 9-13-99)  
C. Residential Use Prohibited

No structure may be constructed or altered for residential use within this district.

D. Area Regulations

1. No structure may cover more than 33 ⅓ percent of its total lot area.
2. All structures shall be built at least 25 feet from all property lines.
3. Where property abuts a railroad where siding facilities are utilized, structures may be built up to the railroad property line.

E. Height Regulations

1. When a structure is designed to exceed 35 feet in height, the Board of Zoning Adjustment may approve the height requirement only if it is demonstrated that the equipment and the structure to house the operation justify such a height.
2. In all other instances, the structure shall not exceed a height of 35 feet.

F. Off-Street Parking

Off-street parking shall be provided in accordance with Chapter VI. In all cases, the forwardmost 25 feet of the front yard shall be maintained as unobstructed open space and shall not be used for parking unless proper control is provided through curb lines, entrances, and exits; and in no case will parking be permitted in a manner so as to result in an automobile backing into any street or otherwise interfering with moving traffic.

G. On-Lot Loading and Unloading Facilities

Each structure or use shall provide on-lot loading and unloading facilities which will allow such activities to be carried on without blocking a street, alley, or public way.

Art. 5-11: LIGHT INDUSTRIAL DISTRICT (I-2)

A. General Description

This district is intended for manufacturing and assembly plants and warehouses that are conducted in such a manner that noise, odor, dust, and glare of each operation are completely confined within an exposed building.

B. Uses Permitted on Review

Churches (by Ord 2012 - 9-13-2001)

All uses in this district must be reviewed and approved by the Planning Commission and must conform to the descriptions below:

1. The manufacturing, compounding, processing, packaging, or assembly of such products as prohibited in the C-1 and C-3 district when found not to be detrimental to uses of adjacent areas or other uses within the I-2 district, and which noise, dust, odor, vibration, or congestion is entirely contained within buildings.
2. Storage of bulk material as is prohibited in the C-1 and C-3 district, when the Planning Commission determines that the specific location and safeguards provided will also reduce the danger of fire or explosion so as not to be hazardous to the health, safety, or general welfare of the persons lawfully occupying adjacent properties or the citizens of the City of Malvern.
3. The following limitations on the external effects of permitted uses will apply in all cases:
  - (a) Every use shall be so operated that it does not emit a dangerous degree of heat, glare, radiation or fumes beyond any boundary line of the lot on which the use is located.
  - (b) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
  - (c) All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
  - (d) Flammable liquids, other than Liquified Petroleum Gas, shall be stored no closer to any boundary line of a lot on which they are located than the minimum distances listed on the following page.

<u>Above Ground Capacity</u>	<u>Minimum Distance</u>
1 - 1,000 gallons	25 feet
1,001 - 3,000 gallons	50 feet
3,001 - 35,000 gallons	100 feet
over 35,000 gallons	120 feet

<u>Under Ground Capacity</u>	<u>Minimum Distance</u>
550 gallons	6 feet
2,000 gallons	10 feet
5,000 gallons	20 feet
15,000 gallons	25 feet
20,000 gallons	30 feet
35,000 gallons	40 feet

(e) Explosives shall be stored no closer to any boundary line of the lot on which they are located than the following distances:

<u>Pounds</u>	<u>Minimum Distance</u>
2 - 5	70 feet
5 - 10	90 feet
10 - 20	110 feet
20 - 25	125 feet

Over 25 Distance shall be established by the Board of Adjustment

#### C. Area Regulations

1. The area of the lot occupied by all structures shall not exceed 60 percent of the total lot area.
2. No building shall be altered and no new building constructed on any lot having a width of less than 60 feet at the front building line.
3. No building shall be altered and no new building shall be constructed on any lot having less than 6,000 square feet of area.
4. Buildings shall provide a front yard of not less than 30 feet, a rear yard of not less than 25 feet, and 2 side yards, each not less than 15 feet, provided, however, that where a railroad track is used jointly, the side yard on the track side may be reduced to conform to the track layout.

#### D. Height Regulations

Buildings may be erected to a height of 35 feet, provided, however, that where it can be demonstrated that equipment and structures to house the operation will require a greater height



than the height limitation, the limitation may be waived upon application to the Board of Zoning Adjustment. It is provided that elevator shafts, air conditioning units, cooling tanks, and other appurtenances necessary and accessory to the permitted use may exceed the height limit up to 60 feet total height, provided that for every 5 feet of increment above the permitted height of 35 feet, there shall be one foot additionally required front, side, and rear yard; and, further provided that no illuminated sign, name plate, display, or advertising device of any kind, shall be inscribed or attached to the portion of any structure exceeding the height limitation.

#### E. Off-Street Parking

Off-street parking shall be provided in accordance with Chapter VI.

In all cases, the forwardmost 25 feet of the front yard shall be maintained as unobstructed open space and shall not be used for parking unless proper control is provided through curb lines, entrances, and exits, and in no case will parking be permitted in a manner so as to result in an automobile backing into any street or otherwise interfering with moving traffic.

#### F. Off-Street Loading Requirements

Off-street loading space shall be provided in the following ratio:

1. For structures containing less than 25,000 square feet of gross floor area, one berth for each 12,500 square feet of gross floor area or increment thereof. Each berth shall have a net area of not less than 420 square feet.
2. For structures containing 25,000 or more square feet of gross floor area, the number of berths are specified in the following table. Each such berth shall be at least 10 feet wide, 35 feet long, and 15 feet high.

<u>Square Feet of Gross Floor Area</u>	<u>Required Number of Berths</u>
25,000 up to & including 40,000	1
40,001 up to & including 100,000	2
100,001 up to & including 160,000	3
160,001 up to & including 240,000	4
240,001 up to & including 320,000	5
320,001 up to & including 400,000	6
For each additional 90,000 over 400,000	1 additional

In addition, there shall be area or means adequate for ingress and egress which shall be so arranged as to permit maneuvering of a truck to reach a loading space by a single backing movement, utilizing property on the lot only.

#### G. Landscape Area Requirements

Each lot shall provide and maintain a landscaped area in the front and side yard setback area. Such landscaped areas must cover at least 35 percent of the total front and side yards and shall be designed to prevent automobiles from crossing or driving onto them. A landscaped strip at least 10 feet wide, exclusive of walks and driveways, shall be provided on each street property line. The area shall be suitably treated with ground cover, trees, and shrubs to present an attractive appearance to the industrial district.

#### Art. 5-12: FLOODWAY OVERLAY DESIGNATION (FW)

This overlay designation provides special regulations designed to reduce flood losses. The requirements of this designation are in addition to those contained in the basic underlying zoning district.

##### A. Uses Permitted

The following uses having a low flood damage potential and not obstructing flood flows shall be permitted within Floodway Districts to the extent that they are not prohibited by any other ordinance or by any other provision of this Ordinance and provided they do not require structures, fill or storage of materials or equipment. But no use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
2. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, target ranges, bike paths, and pedestrian trails.
4. Residential uses such as lawn gardens, parking areas, and play areas.

B. Special Exceptions

The following uses which involve structures (temporary or permanent), fill or storage of materials or equipment may be permitted only upon application to the Zoning Administrator and the issuance of a Special Exception by the Board of Adjustment. These uses are also subject to the provisions of Article 5-10 C, which apply to all Floodway Special Exception uses.

1. Uses or structures accessory to open space or Special Exception uses.
2. Circuses, carnivals, and similar transient amusement enterprises.
3. Drive-in theaters, new and used car lots, and roadside stands.
4. Extraction of sand, gravel, and other materials.
5. Railroads, streets, bridges, utility transmission lines, and pipelines.
6. Storage yards for equipment, machinery, or materials.
7. Kennels and stables.
8. Other issues similar in nature to issues described in Article 5-10A or 5-10B which are consistent with the provisions set out in this Ordinance.

C. Standards for Floodway Special Exception Uses

1. All Uses: No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use may be allowed as a Special Exception use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition all floodway special permit uses shall be subject to the standards contained in the standards set forth below.

2. Fill:

(a) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

(b) Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.

3. Structures (temporary or permanent):

(a) Structures shall not be designed for human habitation.

(b) Structures shall have a low flood damage potential.

(c) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

(i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of floodflow, and;

(ii) So far as practicable, structures shall be placed approximately on the same floodflow lines as those of adjoining structures.

(d) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and

(e) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood protection elevation for the particular area or floodproofed.

4. Storage of Material and Equipment:

(a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plantlife is prohibited.

(b) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

D. Information to be Furnished

Applications for special exception uses shall be made to the Zoning Administrator along with the following information to determine the suitability of the particular site for the proposed use:

1. Plans drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel floodway and regulatory floodway elevation.
2. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
3. Plan showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; and other pertinent information.
4. Profile showing the slope of the bottom of the channel or flow line of the stream.
5. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

#### E. Review of Proposed Use

The above information will be referred to an engineer or other expert person or agency to be designated by the City. The proposed project will then be evaluated in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

Based upon the technical evaluation of the designated engineer or expert, the Board of Zoning Adjustment shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

#### Art. 5-13: FLOODWAY FRINGE DESIGNATION (FF)

This overlay designation provides special regulations designed to reduce flood losses. The requirements of this designation are in addition to those contained in the basic underlying zoning district.

##### A. Uses Permitted

The following uses shall be permitted uses within the Floodway Fringe District to the extent that they are not prohibited by any other ordinance or by any other provision of this Ordinance.

1. Any use permitted in Article 5-10 Section A.
2. Newly constructed residential structures, including mobile homes and prefabricated structures which,
  - (a) Have the lowest floor, including the basement elevated to or above the level of the 100 year flood, or
  - (b) Are protected against flood damage as determined by the Board of Zoning Adjustment, and
  - (c) Are designed, or modified, and anchored to prevent flotation, collapse or lateral movement of the structures, and
  - (d) Use construction materials and utility equipment that are resistant to flood damage, and
  - (e) Use construction methods and practices that are resistant to flood damage, and
  - (f) Use construction methods and practices that will minimize flood damage.
3. Non-residential structures which comply with the requirements of 2(a) through 2(f) above or which, together with attendant utility and sanitary facilities, are floodproofed up to the level of the 100 year flood.
4. No use shall be constructed which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or other drainage facility or system.

Art. 5-14: ESTABLISHMENT QUIET ZONES (QZ)

The Planning Commission, at its discretion, may designate certain areas of the City as Quiet Zones to protect the peace and tranquility of the area. The need for such zones would be necessitated by a predominant land use in the area such as a hospital, which requires a quiet and peaceful environment for effective operation. Quiet Zone designation will be in addition to any of the other commercial zoning designations. When an area is so designated every proposed commercial use will be reviewed by the Planning Commission to determine the proposed use effect on the area, and approved or rejected on a case by case basis.

## Art. 5-15: PLANNED UNIT DEVELOPMENT

### A. General Description

The purposes of this district are to provide a means for developing open space areas in larger developments, to take advantage of natural features of the landscape in this design, to improve the quality of urban environment and to reduce the costs of developing and providing public resources and utilities. The owners of any tract of land containing at least 2 acres may submit a plan for the use and development of the entire tract for residential, compatible business, and related uses as a single and unified project. The basic control of the development intensity shall be the requirements of one or more of the residential districts. The cluster development concept may be used under the Planned Unit Development regulations. The Planned Unit Development shall be a superimposed designation providing a broader latitude of design to achieve the above stated goals. A permit is required.

### B. Site Plan Required

A detailed site plan of the proposed Planned Unit Development District shall be submitted to the City Inspector for study. If necessary, the Inspector shall have the proposed sit plan reviewed by the City's Engineer and/or City Planner. Any provision of the plan may be negotiated based on issues relating to the public health and safety of the residents of Malvern. Following review and any required negotiations, the site plan shall be considered by the Planning Commission at its next meeting. Final approval shall be made by the City Council based on the recommendation of the Malvern Planning Commission.

### C. Uses Permitted

Uses permitted in the Planned Unit Development District are those normally necessary to make up a total neighborhood, specifically including the following:

1. Residential Uses: Any use permitted in the R-3, Multi-Family Residential District.
2. Business Uses: Permitted commercial uses shall be those of retail type and personal service type businesses associated with community shopping centers and office park development.
3. Public and Semi-public Facilities. Community centers, schools, parks and other recreational facilities, churches, clubs, public utilities, libraries and other public buildings and structures required to provide essential public services and any other use which primarily serves the residents of such a development.

#### D. Regulations

1. Residential Lot Size: No minimum lot sizes are established, per se, so the housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features.
2. Open Space Reservation: In any Planned Unit Development, the amount of land not used by residential buildings, accessory structures, and yards but required by the residential zoning of the site, shall be reserved collectively in contiguous units accessible to all the building sites in the development as maintained open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulations, and conserving visually pleasing elements of the environment. Prior to the sale of any lot, site, home or other structure a bond of sufficient surety determined by the Land Development Code Administrator shall be posted with the City for completion of said space improvements prior to such sale. The open space developed will constitute no less than an equivalent proportional amount to the area being developed in the case of partial development.
3. Development Density: Business uses in any Planned Unit Development District shall not constitute over 25 percent of the land area of such development. Land area occupied by residential, business, public and other buildings and accessory structures shall not exceed 45 percent of the total land area of such development. Parking areas for business facilities are considered a commercial use of land. Be it further provided that business development may not be started until the residential development is at least one-fourth complete.
4. Homes Association: As part of the plan proposed for any Planned Unit Development, the developer shall submit a set of covenants running with the land providing for an automatic membership into the Homes Association, to be an incorporated nonprofit organization, operating under recorded land agreements, through which each property owner in the Planned Unit Development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, open space and/or other activities of the Association. Once established, the covenants shall continue and remain in force during the entire existence of the Planned Unit Development.
5. Responsibility for Open Space: Nothing in this Section of the Code shall be construed as a responsibility of the City of Malvern, either for maintenance or liability of the following, which shall include, but not be limited to, any private open areas, parks, recreational facilities, and a hold harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that when an owner of a Planned Unit Development desires to dedicate certain land areas to the City for public parks and recreational



facilities, and the City approves the nature and location of such lands, and accepts the dedicated areas, the City shall be responsible for the operation and maintenance of these lands and properties.

6. Common open spaces shall be provided within a planned unit development in accordance with the Land Development Code of Malvern, Arkansas. The size, shape, dimension and location of the open spaces shall be determined by the city in conjunction with the developer or subdivider with consideration being given to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration should also be given in providing parks, recreational facilities, both active and passive, and pedestrian walkways.

(a) Common open space shall be guaranteed by a restrictive covenant describing the open space and its maintenance and improvement running with the land for the benefit of the residents of the planned unit development. The developer shall file, at the time the approved final plat is filed, legal documents which will produce the aforesaid guarantees and, in particular, will provide for restricting the use of common open spaces for the designated purposes.

7. In order to minimize the disturbance of the natural environment, a general landscaping plan shall be required at the time of preliminary plat submission showing the spacing, sizes, and specific types of landscaping material. The city shall review the landscaping plan in conjunction with the review of the preliminary plat.

(a) The preservation of the natural amenities within the planned unit development shall be given due consideration which shall include topography, trees, and ground cover, natural bodies of water, and other significant natural features. existing trees shall be preserved wherever possible. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. The city shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees and natural features before the commencement of building operations shall be discouraged by the city.

8. Transportation: The vehicular circulation system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. Minor streets within planned unit development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

(a) The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the city, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

9. Land Subdivision: In the construction and installation of all subdivision improvements in the planned unit development, said improvements shall conform to all requirements and standards as set forth in the Subdivision Regulations of the City of Malvern, unless exception to the requirements is recommended by the Planning Commission.

(a) If the owners in the future should request that the private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the City, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners.

10. City Council Approval: Planned Unit Development Districts and establishment of zoning therefor must be approved by the Malvern City Council. However, the development shall be in accordance with the approved site plan. Any contemplated deviation from the approved site plan shall be reviewed by the Planning Commission consideration, and all recommendations shall be submitted to the Malvern Council for approval. The Malvern Planning Commission has the authority to require reasonable plan changes for the Planned Unit Development as a prerequisite to approval.

Any variation from the submitted plans shall be considered a violation of the Planning and Zoning Ordinance and shall incur the penalties set forth for such violation in Chapter X of the Malvern Zoning Ordinance.

Art 5-16 Zone P (Prison Zone)

See attached Ord # 01-10 adopted 5-14-01

## CHAPTER VI: PARKING AND LOADING FACILITIES

### Art. 6-1: OFF-STREET PARKING AND LOADING SPACES

#### A. Required Off-Street Parking

The following off-street parking spaces shall be provided and satisfactorily maintained by the owner of the property, for each building which is hereafter erected, enlarged or altered for use for any of-the following purposes:

##### 1. Residential Units:

- (a) For each one family or 2 family dwelling there shall be 2 permanently maintained parking space on the same lot or parcel for each dwelling unit in addition to requirements for nonresidential uses on the same property.
- (b) For any building or structure containing 3 or more dwelling units, there shall be provided one and one-half parking spaces for each unit thereof in addition to requirements for nonresidential uses on the same property.
- (c) For any hotel, apartment hotel, club house, dormitory, fraternity house or any similar use or establishment there shall be provided at least one parking space for each 3 guest sleeping accommodations or each rentable unit, whichever is greater.
- (d) For any motel, tourist court, camp ground or similar use or establishment there shall be provided one parking space on the same parcel of land for each individuals sleeping or living unit in addition to such unit.
- (e) For any mobile home park there shall be provided on the same parcel of land not less than 2 parking spaces per trailer, in addition to the space required by the trailer.

##### 2. Hospitals:

- (a) For any hospital, sanatorium, convalescent home or other similar use or establishment there shall be provided not less than 2 parking spaces for each bed.

##### 3. Assembly and Entertainment Places:

- (a) For any general auditorium, gymnasium, church, school, college or university auditorium, stadium, theater, or other similar place of assembly

there shall be provided at least one parking space for each 4 (4) seats provided for its patrons, based on the maximum seating capacity. For any church there shall be allowed the use of joint parking facilities in connection with any building or use not normally open, used, or operated during the principal operating hours of a church, provided a properly drawn legal instrument is executed by the parties concerned for the joint use of such off-street parking facilities, which instrument, duly approved as to form by the City attorney shall be filed with the applications for a building permit.

(b) For any meeting, exhibition, or entertainment hall, labor temple lodge halls or other assembly hall without fixed seats there shall be provided not less than one parking space for each 2 hundred and fifty square feet of gross floor area thereof.

(c) For any bowling alley there shall be provided 4 parking spaces for each bowling alley thereof.

4. Offices: For any bank, clinic, funeral home, business or professional office, welfare institution or any other similar use or establishment there shall be provided not less than;

(a) Requirement: One parking space for each 4 hundred square feet of gross floor area or part thereof for the first 4 thousand square feet of building.

(b) Requirement: Any building which has a gross floor area greater than 4,000 square feet shall first provide the requirement under (4) (a) for the first 4,000 square feet and then provide one parking space for each 500 square feet of gross floor area in excess of 4,000 square feet.

5. Food Serving Places:

(a) For any eating or drinking establishment or any similar use there shall be provided not less than one parking space for each 250 square feet of gross floor area thereof.

(b) Drive in and fast food establishments shall provide sufficient parking spaces, as determined by the Planning Commission, so that no automobiles are parked on adjacent streets while owners are using the establishments.

6. Retail Sales Uses:

(a) For any retail store, except a food market, there shall be 2 square feet of parking, driveway, entrance, and exit area for each square foot of gross leasable floor area.

(b) For any food market establishment or any similar use there shall be 2.5 square feet of parking, driveway, entrance and exit area for each square foot of gross leasable floor area.

7. Laundromats:

(a) Each self-service laundry shall provide one parking space for each 2 laundry units.

8. Automotive Services

(a) For any gasoline, oil or lubricating service station, motor vehicle service and repair establishment, or any similar use there shall be provided not less than one parking space for each 1,000 square feet of gross plot plan area thereof, with a maximum of 10 spaces required exclusive of driveways and enclosed parking bays.

(b) For an automobile washing or cleaning establishment or any similar use there shall be provided not less than one parking space at the location of ingress and egress for each 100 square feet of gross floor area thereof and in no case less than 6 spaces.

9. Production, Processing and Storage Uses

(a) For any manufacturing, processing, wholesaling, or any other use or establishment including any printing or engraving establishment there shall be provided 2 parking spaces plus one parking space for each 800 square feet of floor area in excess of 2,000 square feet, or one space per employee based on the largest work shift, whichever is greater.

(b) For any warehouse or storage building there shall be provided 2 parking spaces plus one for each 2,000 square feet of floor area in excess of 2,000 square feet, or one space for each person actually employed on the premises, whichever is more.

B. Unlisted and Mixed Uses

In the case of any use not listed herein, the number of parking spaces required for such use shall be the same as for a similar use which is listed. In the case of mixed uses in the same

building or structure, the total requirement for off-street parking facilities shall be the sum of the requirements of the various uses computed separately from the items set out in this section, and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified for collective use.

#### C. Distance Measurements

The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking area or facility is to serve.

#### D. Collective Parking Facilities

Nothing in this section shall be construed to prevent collective provision of any off-street parking facility for 2 or more buildings or uses providing, however, that the total number of off-street parking spaces shall not be less than the sum of requirements for the various individual uses computed separately in accordance with the items set out in this section.

#### E. General

All parking spaces provided pursuant to this section shall be on the same lot with the building or within 300 feet thereof, except for the special requirements set forth in (1) (d) and (1) (e) of Section A.

#### F. Off-Street Loading

On the same premises with every building, structure or part thereof hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, hotel, mortuary, laundry, dry cleaning, or other uses, involving the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained adequate space for standing, loading and unloading in order to avoid undue interference with public use of the street or alley.

Such space, unless otherwise adequately provided for, shall include a 12 foot by 30 foot loading space with 14 foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor and land area used for above-mentioned purposes.

#### G. Parking Area

Every parcel of land which, after the effective date of this Ordinance, is changed to a parking area, automobile, motor vehicle, or trailer sales or storage area, or automobile or motor vehicle service station or garage shall be developed as follows:

1. Such parking area where subject to wheeled traffic shall be paved. The minimum pavement requirements shall be as follows: one and one-half inch asphaltic concrete hot mix with a 5 inch compacted base, or a double surface treatment with a 5 inch compacted base, or a 4 inch concrete slab, and shall have appropriate bumper guards where needed.
2. Where such parking area adjoins a lot in a residential zone, or is across the street from a residential zone, a compact evergreen screen or a permanent type opaque fence of wood, masonry, or metal construction having a height of not less than 4 feet shall be erected and maintained between such area and the property in residential zones. In a residential zone all required front yards shall be properly maintained as such except for ingress or egress. Such front yard space shall not be used for off-street parking nor for maneuver area except that a driveway no greater than 18 feet in width, or 24 feet in width where a 3 car garage or carport exists, may be used to comply with off-street parking requirements.
3. Any light used to illuminate said parking area shall be so arranged as to reflect the light away from adjacent properties or from properties located across the street.
4. Every application for a permit to construct or maintain a parking lot shall contain detailed plans describing the intended facility.
5. It shall be prohibited to place asphalt shingles or composition shingle strips or cutouts on any parking area.
6. No parking area shall be approved if it is designed such that automobiles are required or encouraged to use the public right-of-way for maneuvering or backing from a space.

#### H. Permanency of Spaces Provided

Any off-street parking or loading space established prior to the effective date of this chapter and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this chapter for any such main building or structure erected after such effective date, shall hereafter be maintained so long as said building or structure remains, unless the owner provides and maintains in another location an equivalent number of required spaces in conformance with the provisions of this section.

Any conveyance of such parking or loading space, or transfer of interest therein, by the owner of the property served thereby without a simultaneous conveyance or transfer of the property served thereby to the same grantee or transferee or without suitable provision being

made in another location for the maintenance of an equivalent number of required spaces in conformance with the provisions hereof shall be prohibited.

I. Size of Off-Street Parking Space

The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than 9' x 20' plus adequate area for ingress and egress.



## CHAPTER VII: NONCONFORMING BUILDINGS, STRUCTURES, AND USES OF LAND

### Art. 7-1: NONCONFORMING BUILDINGS AND STRUCTURES

A nonconforming building or structure existing at the time of adoption of this ordinance may be continued, maintained, and repaired, except as otherwise provided in this section.

#### A. Alteration or Enlargement of Buildings and Structures

A nonconforming building or structure shall not be added to nor enlarged in any manner unless said building or structure, including additions and enlargements, is made to conform to all of the regulations of the district in which it is located, provided, however, that if a building or structure is conforming as to use, but nonconforming as to yards or height, or off-street parking space, said building or structure may be enlarged or added to provided that the enlargement or addition complies with yard and height and off-street parking requirements of the district in which said building or structure is located. No nonconforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of said building or structure is made to conform to all of the regulations of the district in which it is located.

#### B. Outdoor Advertising

Any advertising sign, billboard, commercial advertising structure, or statuary, which is lawfully existing and maintained at the time this ordinance became effective, which does not conform to the provisions hereof, shall not be structurally altered. All such nonconforming advertising signs, billboards, commercial advertising structures, and statuary, and their supporting members, shall be completely removed from the premises not later than 3 years from the effective date of this ordinance.

#### C. Building Vacancy

A building or structure or portion thereof, which is nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

#### D. Change in Use

A non-conforming use of a conforming building or structure shall not be expanded or extended into any other portion of such conforming building or structure, or changed except to a conforming use. If such a nonconforming use, or portion thereof, is discontinued or changed to a conforming use, any future use of such buildings, structure, or portion thereof, shall be in conformity with regulations of the district in which such building or structure is located. A vacant or partially vacant nonconforming building or structure may be occupied by a use for which the

building or structure was designed or intended if occupied within a period of one year after the effective date of this ordinance. Otherwise, it shall be used in conformity with the regulations of the district in which it is located.

The use of a nonconforming building or structure may be changed to a use of the same or a more restrictive district's classification; but where the use of nonconforming buildings or structures is changed to a use of more restrictive district's classification, it thereafter shall not be changed to a use of a less restricted district's classifications.

Art. 7-2: NONCONFORMING USES OF LAND

A nonconforming use of land where the aggregate value of all permanent buildings or structures is less than \$1,000, existing at the time of the adoption of this ordinance, may be continued for a period of not more than 3 years therefrom, provided that:

1. Said nonconforming use may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of this ordinance.
2. If said nonconforming use or any portion thereof is discontinued for a period of 6 months, or changed, any future use of such lands or change in use, shall be in conformity with the provisions of the district in which said land is located.

## CHAPTER VIII: BOARD OF ZONING ADJUSTMENT

### Art. 8-1: ORGANIZATION OF BOARD OF ZONING ADJUSTMENTS

A. A Board of Zoning Adjustment, hereinafter referred to as "The Board", is hereby established to consist of 5 members to be nominated by the Planning Commission and confirmed by the City Council, one member of the first Board shall be for one year, one for 2 years, one for 3 years, and thereafter, all members shall be appointed for terms of 3 years each. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as the original appointments.

B. Upon appointment and annually thereafter, the Board shall meet, organize, and elect its own chairman who shall serve for one year or until his successor duly qualifies. The Chairman may appoint a secretary who is not a member of the Board and who shall hold office until relieved by the Board and who shall receive such compensation from the City of Malvern as may be affixed from time to time by the City Council.

### Art. 8-2: MEETINGS

A. Meetings of the Board shall be held at such time and at such place within the City of Malvern as the Board may designate, and may meet at any time on call of the chairman.

B. The Board shall keep minutes of its proceedings which shall contain as a minimum:

1. Time, date, and place of meeting.
2. Names of members present.
3. Citation, by number, and description of appeal or application.
4. Pertinent facts of the case.
5. Names of persons appearing and their interest in the case.
6. Record of vote by name.
7. Authority for decision (cite ordinance or statute) and reason for conditions imposed.

The minutes of the meeting shall be filed by the secretary of the Board in the offices of the City Clerk and shall be public record.

C. Any member of the Board who fails to be in attendance at 2 consecutive scheduled meetings shall have his appointment declared vacated, and a new member shall be selected as provided in Art. 8-1A.

Art. 8-3: APPEALS FROM DECISION OF ENFORCEMENT OFFICER

A. The Board shall hear appeals from an administrative decision of the enforcement officer, who shall be designated by the City Council concerning interpretation of the zoning ordinance and shall decide whether such interpretation was in error or not.

Art. 8-4: VARIANCES

A. The Board shall hear requests for variance from the literal provisions of the zoning ordinance in instances where strict compliance to the provisions of the ordinance would cause undue hardship due to the circumstances unique to the individual property under consideration.

B. The Board may grant variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the zoning ordinance.

C. The Board shall not permit as a variance any use in a zone that is not permitted under this ordinance.

D. The Board may impose conditions in the granting of the variance to insure compliance and to protect adjacent property.

Art. 8-5: OTHER FUNCTIONS

A. The Board may hear applications and take such action as permitted on matters specifically referred to it under this ordinance.

Art. 8-6: APPEALS FROM DECISIONS OF THE BOARD

A. Appeal from the decision of the Board shall be to a court of record within 30 days from the decision of the Board.

Art. 8-7: NOTICES AND FEES

A. Whenever an appeal or application for a variance is made to the Board, the Board shall cause to have published at the expense of the appellant or applicant a notice of the time and place of the public hearing upon such appeal or application, which notice shall be published at least once not less than 7 days preceding the date of such hearing in an official paper or a paper of general circulation in Malvern, said notice to designate the particular location with which the appeal or application is concerned, and a brief statement as to what the appeal or application consists of.

The Board shall also give or cause to be given such additional notice of such hearing to interested persons and organizations as it shall deem feasible and practicable.

B. The appellant or applicant shall be required to pay to the City Clerk a filing fee of \$10.00 to cover such other costs as may be incurred in connection with such appeal or application.

## CHAPTER IX: AMENDMENTS

### Art. 9-1: AMENDMENT TO TEXT

A. The City Council may suggest that Planning Commission amend the text of this ordinance or the Planning Commission itself may desire to initiate an amendment. Should the Planning Commission, after study, request a change in the text, it shall conduct a Public hearing on the proposed amendment(s). Following the public hearing, such recommendations shall be submitted to the City Council for adoption.

### Art. 9-2: CHANGE IN CLASSIFICATION

A. A petition giving the legal description of the property involved and the zoning classification requested for the property, shall be submitted to the Planning Commission by the property owner or his legally designated agent. The petition shall also include a statement and diagram explaining why the proposed changes will not conflict with surrounding land uses.

B. Upon receipt of the petition for an amendment, the Planning Commission, in accordance with Act 186 of the 1957 General Assembly as subsequently amended, shall proceed as follows:

1. The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published at the applicant's expense in a newspaper of general circulation in the City, at least one time 15 days prior to the hearing. The petitioner shall post and maintain a notice of hearing at a conspicuous place on the property fifteen days prior to said hearing, and shall notify all property owners within 200 feet of the subject property at least 7 days prior to the hearing of the date, time, place, and purpose of the hearing.
2. Following the public hearing, the proposed amendment may be approved as presented or in modified form by a majority vote of the Planning Commission and recommended for adoption by the City Council, with reasons for such recommendation stated in writing.
3. If the Planning Commission disapproves a proposed amendment, the reasons for such disapproval shall be given in writing to the petitioner within 30 days from the date of the hearing.
4. The City Council by majority vote, may adopt the recommended amendment submitted by the Planning Commission by ordinance or may return the proposed amendment to the Planning Commission for further study and recommendation. If the City Council does not concur with the recommendation of the Planning Commission, whether at first submitted or as submitted after restudy, the City

Council may, by a majority vote, amend this ordinance by granting the request for amendment in full or in modified form.

5. Following disapproval of a proposed amendment by the Planning Commission, the petitioner may appeal such disapproval to the City Council provided that the petitioner states specifically in writing to the City Clerk why he considers the Planning Commission's findings and decision are in error. Such appeal shall be filed with the City Clerk within 15 days of the date he receives reasons for disapproval from the Planning Commission.

C. No application for a zoning amendment will be considered by the Planning Commission within twelve months date of final disapproval of a proposed amendment unless the Commission, by a majority vote of its entire Membership, decides to waive this provision.

D. Before any action shall be taken as provided in this section, any persons or person proposing a change in the zoning regulations or district boundaries shall deposit with the City Clerk the sum of \$25.00 to cover the approximate cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be adopted by the City Council.

## CHAPTER X: PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. After the expiration date indicated by the notice of violation, any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. After the expiration date indicated by the notice of violation, each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who willfully commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.



## CHAPTER XI: COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the zoning official who shall record properly such complaint, immediately investigate and take action thereon as provided by this Ordinance.

## CHAPTER XII: PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare.

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards, shall govern.

### CHAPTER XIII: SEPARABILITY CLAUSE

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

#### CHAPTER XIV: REPEAL OF ALL OTHER ORDINANCES

All ordinances and parts of ordinances pertaining to zoning with the City of Malvern which conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed.

## CHAPTER XV: MODIFICATION OF SUBDIVISION REGULATIONS

As pertains to Subdivision Regulations, adopted by Ordinance No. 704 Chapter 1. Paragraph H, Subdivision shall be amended to read as follows:

Subdivision - A subdivision shall include all divisions by platting or by metes and bounds of a tract or parcel of land into 2 or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or buildings development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets and shall include mobile home parks and multi-structure apartment developments; provided, however, that the following shall not be included within this definition nor be subject to the subdivision rules and regulations of this municipality:

1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards or ordinances of the municipality.
2. The division of land into parcels greater than 5 acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase or dedication of parcels of land for the widening or opening of streets or other improvements.

CHAPTER XVI: EFFECTIVE DATE

This Ordinance shall become effective on the 10<sup>th</sup> day of August, 1998. Approved  
this 10<sup>th</sup> day of August, 1998

Bill Scrimshire  
BILL SCRIMSHIRE  
MAYOR

ATTEST

Phyllis Dial  
PHYLLIS DIAL  
CITY CLERK

ORDINANCE NO. 1183

AN ORDINANCE AMENDING ORDINANCE NO. 1183, ADOPTED August 10, 1998, ESTABLISHING ZONING CLASSIFICATIONS WITHIN THE CITY OF MALVERN

WHEREAS, The City Council of the City of Malvern passed Ordinance No. 1183, on August 10, 1998, adopting the 1998 Edition of the Zoning Ordinance for the City of Malvern, and County,

WHEREAS, the City Council is desirous of changing the provisions for the zoning of newly annexed property to the City of Malvern.

NOW, THEREFORE, BE IT ORDAINED BY THE MALVERN CITY COUNCIL:

Section 1. That ordinance No. 1183 and the 1998 Edition of the Zoning Ordinance of the City of Malvern, Arkansas are hereby amended as follows:

A. That paragraphs A and B of Article 3-2: ANNEXATION are deleted and replaced with the following:

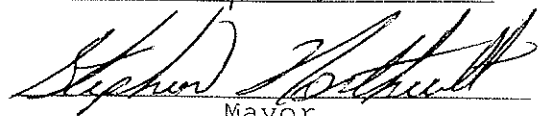
Art. 3-2: ANNEXATION

A. Landowners annexing property to the City of Malvern may request a zoning classification for the property to be annexed, on the application for annexation. The zoning, as requested by the landowner, will be reviewed by the City zoning official prior to finalization of the annexation. If the zoning as requested by the landowner conforms with the City of Malvern's Comprehensive land use plan, the zoning for the property shall be finalized at the time the annexation is accepted by the City Council.

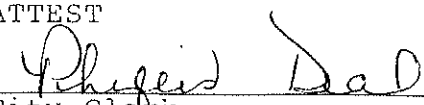
B. Any property not requested to be zoned by the landowner will be reviewed and classified by the Planning Commission at their first regularly scheduled meeting following the finalization of the annexation.

Section 2. All other ordinances, agreements, or parts of ordinances and agreements in conflict with the provisions of this ordinance are hereby repealed.

PASSED this 10<sup>th</sup> day of April, 2000.

  
Mayor

ATTEST

  
City Clerk

ORDINANCE NO. 01-10

AN ORDINANCE AMENDING ORDINANCE NO. 1183, ADOPTED August 10, 1998, TO ESTABLISH A SPECIAL ZONING CLASSIFICATION WITHIN THE CITY OF MALVERN

WHEREAS, The City Council of the City of Malvern passed Ordinance No. 1183, on August 10, 1998, adopting the 1998 Edition of the Zoning Ordinance for the City of Malvern, and County,

WHEREAS, there is a need to establishing a zoning classification for prison and jail facilities within the City of Malvern, Arkansas.

NOW, THEREFORE, BE IT ORDAINED BY THE MALVERN CITY COUNCIL:

Section 1. That ordinance No. 1183 and the 1998 Edition of the Zoning Ordinance of the City of Malvern, Arkansas are hereby amended to add Article 5-16 in Chapter 5 as follows:

Art. 5-16: ZONE P (SPECIAL PRISON DISTRICT)

A. General Description.

This is a special zone established for jail or prison facilities.

B. Uses Permitted.

1. Prison or jail facilities
2. Administrative Offices
3. Medical Facilities
4. Any other use necessary for the conduct of prison or jail facilities.

C. Building Regulations.

All structures must comply with Arkansas regulations for prison and jail use facilities.

Section 2. All other ordinances, agreements, or parts of ordinances and agreements in conflict with the provisions of this ordinance are hereby repealed.

PASSED this 14<sup>th</sup> day of May, 2001.

  
Mayor

ATTEST

  
City Clerk



ORDINANCE NO. 2012

AN ORDINANCE AMENDING ORDINANCE NO. 1183, ADOPTED August 10, 1998, ESTABLISHING ZONING CLASSIFICATIONS WITHIN THE CITY OF MALVERN

WHEREAS, The City Council of the City of Malvern passed Ordinance No. 1183, on August 10, 1998, adopting the 1998 Edition of the Zoning Ordinance for the City of Malvern.

WHEREAS, the 1998 Edition of the Zoning Ordinance allows churches only to be constructed in Residential or C-3 or C-4 Commercial Districts, and

WHEREAS, the City Council is desirous to amend the 1998 Edition of the Zoning Ordinance to allow churches to be constructed in the less restrictive C-1 and C-2 Commercial zones, and Industrial zones.

NOW, THEREFORE, BE IT ORDAINED BY THE MALVERN CITY COUNCIL:

Section 1. That ordinance No. 1183 and the 1998 Edition of the Zoning Ordinance of the City of Malvern, Arkansas are hereby amended to show churches as a permitted use in the zones of C-1 and C-2, and Industrial zones.

Section 2. All other ordinances, agreements, or parts of ordinances and agreements in conflict with the provisions of this ordinance are hereby repealed.

PASSED this 13<sup>th</sup> day of September, 1999.

  
Mayor

ATTEST

  
City Clerk